Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/840,109	WEEL, MARTIN	
Examiner	Art Unit	
Le Luu	2441	

1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant but timely file one of the following replies: (1) an amendment, afficially, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply expires 3_months from the mailing date of the final rejection. b) ☐ The period for reply expires 3_months from the mailing date of the final rejection. b) ☐ The period for reply expires 3. (1) the mailing date of the final rejection. Examiner Note: if los 1 is checked, check either box (3) or (5) ONLY-CHECK BOX (6) WHEN THE FIRST REPLY-WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See IMPEP 705.07(f). Extensions Note: if los 1 is checked, check either box (3) or (5) ONLY-CHECK BOX (6) WHEN THE FIRST REPLY-WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See IMPEP 705.07(f). Extensions may be obtained under 37 CFR 1.136(a). The date which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in the bow, if checked. Any reply received by the Office letter than three months after the mailing date of the final rejection, even if timely filed, may reduce any seamed patent term adjustment. See 37 CFR 1.704(b). Compared to the period of a papeal was filed on		Le Luu	2441			
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avious abandonment of this application, applicant must itmely file one of the following reples: (1) an amendment, affidate, or other avious abandonment of this application, applicant must itmely file one of the following reples: (1) an amendment, affidate, or other avious abandonment of this application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.131; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply expires 2 months from the mailing date of the final rejection. Examiner Note: If box is checked, check either box (a) or (b). CNLY-CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS Of THE FIRMA REJECTION. See MPEP 706.07(1). Extensions of time may be obtained under 37 CFR 1.135(a). The date on which the petition under 37 CFR 1.136(s) and the appropriate extension fee number 37 CFR 1.17(s) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; (2) as may reduce any example applications of the file appropriate extension fee number 37 CFR 1.17(s) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; (2) as may reduce any example applications and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.137(s) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; (2) and the shortened statutory period for reply originally set in the final office action; (2) and the shortened statutory period for reply originally set in the final office action; (2) and the shortened statutory period for reply originally set in the final office action of the file of the file of the fil	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress		
application, applicant must timely file one of the following replies: (1) an amendment, afficavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.14. The reply must be filed within one of the following time periods: a) The period for reply expires 3 months from the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Note: (If bot is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MPEP 706 07(f). Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed in the state of the filed of the file	THE REPLY FILED <u>22 December 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.					
a) The period for reply expires 2_months from the mailing date of the final rejection. b) The period for reply expires or: (1) the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examer Note: If box 1. is checked, check citisher box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, over if timely filed, may reduce any amend patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on	application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	replies: (1) an amendment, affidavit eal (with appeal fee) in compliance	t, or other evidence, www. with 37 CFR 41.31; or	hich places the (3) a Request		
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 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(a), to avoid dismissal of the date of filing the Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). Д have a mendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). [5] ☐ Applicant's reply has overcome the following rejection(s): [6] ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) allowed: Claim(s) allowed: Claim(s) allowed: Claim(s) signeded: <u>35.37.39.41 and 49.53</u> Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE [8] ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(g) [9] ☐ The affidavit or other evidence filed after the date of	Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
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 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 35.37.39.41 and 43-53. Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Please refer to attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)						
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